

In the Matter of Merchant Mariner's Document No. Z-567341
Issued to: DICK MILTON CARPENTER

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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DICK MILTON CARPENTER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 9 February, 1951, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-567341 issued to Dick Milton Carpenter upon finding him guilty of misconduct based upon two (2) specifications alleging in substance that while serving as deck maintenance man on board the American SS ALCOA CAVALIER under authority of the document above described, (1) on or about 8 February, 1951, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had in his possession certain narcotics, to wit, marijuana; and (2) while serving as ordinary seaman and deck maintenance man on various American vessels, he used marijuana at intervals between the year 1946 and October, 1950.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and first specification proffered against him; "not guilty" to the second specification. The plea to the first specification was later changed to "not guilty."

Thereupon, the Investigating Officer and Appellant made their opening statements and the Investigating Officer introduced in evidence the testimony of four witnesses from the Customs Service.

In defense, Appellant offered his unsworn statement that he had no knowledge of the marijuana nor how it got into his coats.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specifications and entered the order revoking Appellant's Merchant Mariner's Document No. Z-567341 and all other licenses, certificates of service and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged:

1. The evidence presented at the hearing was removed from articles of clothing by the Supervising Customs Agent at New Orleans "when not in the presence of" Appellant;
2. The locker where articles of clothing were kept was open at all times and anyone on the ship had access thereto. It is not an uncommon thing for seamen to borrow the clothing of other seamen;
3. No substantiation was offered for the testimony of the Supervising Customs Agent that Appellant had been under surveillance by the Customs since 1948;
4. There was no proof adduced to prove the charge that Appellant had used marijuana at various times on other vessels;
5. Appellant has never been arrested, indicted, or convicted of being a user, seller, or carrier of any form of narcotics;
6. Since Appellant's admission that he had used marijuana, as alleged in the second specification, was accepted to prove that specification, his denial of knowledge respecting the presence of the marijuana in his clothing should have received the same consideration and he should have been acquitted of the first specification;
7. Appellant has a clear record of employment on American vessels and has never been discharged by any company or the War Shipping Administration for misconduct.

FINDINGS OF FACT

On 8 February, 1951, Appellant was serving as deck maintenance man on board the American SS ALCOA CAVALIER and acting under authority of his Merchant Mariner's Document No. Z-567341.

The vessel on that date was in New Orleans, Louisiana, and in the course of a routine search by Customs Officers, marijuana was discovered in four pockets of two articles of clothing and a suitcase which Appellant admitted belonged to him. Appellant's denial of knowledge concerning the presence of the marijuana (in the form of seed, leaves and stems) was not satisfactory to the Customs officials nor to the Coast Guard Examiner.

There is testimony that Appellant had admitted having used marijuana while employed on two other American vessels; once at Oran, North Africa, and again at Istanbul, Turkey; but Appellant contends that on each occasion, he used the marijuana while under the influence of alcohol.

Until this occasion, there is no record of any previous misconduct on the part of Appellant, although the testimony does disclose that he had been under observation by the Customs Officers

for sometime and on 8 February, 1951, the Port Patrol Officer went directly to Appellant's quarters and found just what they had expected to find (R. p.7).

OPINION

I find no merit in any of the points raised on this appeal. Appellant was present when his effects were first inspected by the Patrol Officer and he admitted ownership of the articles in which the marijuana was found. The distribution of the weed in its several forms throughout his effects does not lend credence to his denial that he knew of its presence.

The interest of the Customs Officers in this Appellant does not give me much concern; but I am impressed by the fact that he has used marijuana in the past and marijuana was found in his effects on the occasion in question.

The Examiner very aptly stated that "using, selling, transportation or possession of marijuana, or narcotics, are extremely serious offenses and considered among the most pernicious arising within the administration of the United States Coast Guard * * * seamen who in anywise become involved or associated with a narcotic situation are potentially such a hazard to the safety of life and property at sea that their removal from the maritime world is entirely justified."

This action is taken for their own protection, as well as for the protection of their shipmates and the owners of vessels on which they may be employed.

CONCLUSION

I find no reason to interfere with the Order entered in this case.

ORDER

The Order of the Examiner dated at New Orleans, Louisiana, on 9 February, 1951, is AFFIRMED.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 15th day of June, 1951.